THE HON'BLE Mr. JUSTICE B. SUDERSHAN REDDY

AND

THE HON'BLE Mr. JUSTICE C.V. RAMULU

W.P. No.20468 OF 2005

DATE: 26-09-2005

Between:

M/s. Sangam Health Care Products Limited,
a Public Limited Company, Having its registered
office at 205, 206, Amarchand Sharma Complex,
S.P. Road, Secunderabad, Rep. by its Sr. Manager Legal,
Mr. Sunil Kumar Palnitkar, S/o. Late Sri Balwant Rao
Palnitkar, aged about 40 years.

.. Petitioner

AND

The Commercial Tax Officer
S.D. Road Circle, 4th Floor,
R.S. Brothers, Ameerpet,
Hyderabad & another .. Respondents

THE HON'BLE Mr. JUSTICE B. SUDERSHAN REDDY

AND

THE HON'BLE Mr. JUSTICE C.V. RAMULU

W.P. No.20468 OF 2005

ORDER: (Per Hon'ble Mr. Justice B. Sudershan Reddy)

We have heard the learned counsel for the petitioner, Sri S. Ravi, and the learned standing counsel for Commercial Taxes and at their request the writ petition itself is taken up for final disposal at the stage of admission.

Rule nisi.

The petitioner invokes the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India with a prayer to issue Writ of *Certiorari* by calling for the records in the impugned order, dated 08-09-2005, and quash the same as being illegal, arbitrary and contrary to the provisions of the Andhra Pradesh Value Added Tax Act, 2005 (for short VAT Act').

The petitioner is a dealer engaged in the business of manufacture of intravenous infusion sets, ultra guard infusion sets and immu set infusion sets etc.

The 1st respondent herein issued impugned show cause notice dated 29-07-2005, which was actually signed on 29-08-2005, and the same was duly served on the petitioner on 30-08-2005. In the show cause notice, it is alleged that the petitioner has not paid the applicable value added tax (for short 'VAT') in respect of the goods for a period up to July, 2005 and the petitioner was accordingly directed to show cause as

to why the proposed amount should not be assessed to tax. It is stated and about which there is no difficulty whatsoever as is evident from the impugned order that the petitioner submitted a detailed reply to the show cause notice on 05-09-2005 contending that the petitioner had made out a detailed case as to how even prior to amendment of Entry 88, it was squarely covered by definition of Drug under provisions of Section 3 of Drugs and Cosmetics Act, 1940. It is stated that the petitioner had clarified the classification sofar as the goods manufactured and sold by it in terms of Entry 88 of Schedule IV of the VAT Act. A copy of the said explanation submitted by the petitioner is made available for our perusal.

Be that as it may, the 1st respondent passed assessment order of VAT under the printed proforma without assigning any reason whatsoever. The explanation submitted by the petitioner to the show cause notice has been considered by the respondents in the following manner:

> *"……After consideration of your reply received in this office on 5-9-05 – not accepted."*

It is difficult to discern as to what made the respondents to pass the assessment of VAT in such manner even without referring to the contents of the explanation submitted by the petitioner to the show cause notice, which is least expected from the respondents authority. The respondents are under obligation not only to refer the contents of the explanation in detail but also record the reasons, if the explanation for any reason is not acceptable to it. Such bald and cryptic orders, as the one under challenge, do not inspire any confidence and they cannot be treated as orders passed in bona fide exercise of the powers. The Court has no option except to interfere with such cryptic and laconic orders and we accordingly interfere with the impugned order.

Accordingly, the impugned order is set aside.

There shall be a direction to the respondents to consider the contents of the

explanation submitted by the petitioner and pass a speaking and reasoned order, in accordance with law, and communicate the same to the petitioner. There shall be an order accordingly.

The Writ Petition is accordingly allowed without any order as to costs.

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B. SUDERSHAN REDDY, J

Date:26-09-2005.

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C.V. RAMULU, J

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